IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY THIRD DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 12880 of 2004

Between:

Pujiyam Kameswara Rao S/o P. Satyanarayana Murthy
r/o Pekeru Iragavaram Mandal, West Godavari District

..... PETITIONER

AND

1. The Manager, Sri Dhanadeswara Swamivari Devasthanam Pekeru,

Iragavaram mandal West Godavari District
2 The Assistant Commissioner of Endowments, Eluru
3 Pujam Malleswara Rao S/o Venkata Rao
Pekeru Iragavaram Mandal West Godavari District

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, order or direction more particularly one in the nature of a Writ of Mandamus directing the 1st respondent to permit the petitioner to perform Archakatvam service in Sri Dhanadeswara Swami Temple Pekeru, West Godavari district by declaring the action of the respondents 1 & 3 as illegal and void and pass such other order or order as this Hon'ble Court may deem fit and proper in the circumstances of the case

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondent No. 2.: GP FOR ENDOWMENTS

Counsel for the Respondent No.1 & 3: None appeared

The Court made the following at the stage of admission :

ORAL ORDER

The petitioner, who claims to have been performing Archakatvam in Sri Dhandeswara Swamivari Devastanam-first respondent herein, for a longtime, has filed this writ petition for a direction to the first respondent-temple to permit him to perform Archakatvam service by declaring the action of the first and third respondents as arbitrary and illegal. He seeks a further direction to relieve the third respondent forthwith and permit him to perform Archakatvam in the temple.

The case of the petitioner is that originally the services were rendered by himself and his brother Venkat Rao and since his brother has become old, his sons were performing the services on behalf of their father. Every year, for a term of six months, the services are being rendered by the third respondent and for another six months, the petitioner was performing the services. Further, it is the case of the petitioner that the term of the third respondent came to end on 30.06.2004 and he was supposed to handover the charge to the petitioner on 01-07-2004 and when the third respondent did not handover the charge to him, the first respondent had issued a memo on 02-07-2004 directing him to handover the charge to the petitioner. But the third respondent has given a reply on 04-07-2004 stating that the villagers have been objecting to the performance of services by the petitioner due to his old age and hence, he is not going to handover the charge. Again, the first respondent had issued another memo on 07-07-2004 and in spite of the same, the third respondent is not handing over charge to the petitioner. Further, it is alleged that due to inaction on the part of the first respondent, the right of the petitioner to perform Archakatvam

is being affected and that he is losing the share in the offerings also. Hence, this writ petition.

Admittedly, the first and third respondents have been rendering Archakatvam for a period of six months each in every year as per the mutual understanding among them but not in terms of any statutory provision. Both petitioner and third respondents are closely related. The third respondent is none other than the son of the petitioner's brother. May be that the petitioner, as per their mutual understanding, is entitled to perform Archakatvam from 01.07.2004 onwards, but when the matter does not involve enforcement of any legal right or statutory obligation, it is not open to the petitioner to seek a writ of Mandamus directing the 1st respondent to permit him to perform Archakatvam. Hence the relief as prayed for cannot be granted.

However having regard to the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition, granting liberty to the petitioner to make a representation before the Assistant Commissioner of Endowments, Eluru-second respondent herein with all relevant material with regard to his grievance. On receipt of such a representation, the second respondent shall consider the same and pass appropriate orders in accordance with law, after affording both parties an opportunity of being heard in the matter, within a period of two weeks from the date of receipt of representation from the petitioner.

With the above said observation, the writ petition is disposed of. No costs.

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G.ROHINI,J

*TSNR

To

1. The Assistant Commissioner of Endowments, Eluru
2. Two C.D.Copies